

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Oluwarinde Oluwasanmi,

Petitioner, Case No. 21-cv-10288

v.

Judith E. Levy
United States District Judge

Director, Bureau of Immigration
and Customs Enforcement, *et al.*,

Mag. Judge R. Steven Whalen

Respondents.

_____/

ORDER DISMISSING CASE [3]

On February 2, 2021, Petitioner Oluwarinde Oluwasanmi filed a *pro se* petition for a writ of habeas corpus under 28 U.S.C § 2241. (ECF No. 1.) On February 26, 2021, Petitioner filed a notice to withdraw the petition. (ECF No. 3.) In this notice, Petitioner asks the Court to allow him to withdraw his petition because he “[has] reasonable fear that further pursuant [sic] of the case might lead to even more prolonged detention.” (ECF No. 3, PageID.13.) No answer or motion for summary judgment has been filed.

While Petitioner does not identify the specific rule he relies on in support of his request that his petition be voluntarily withdrawn, his request appears to have been made pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i). “Rule 41(a) applies to habeas corpus proceedings.” *Bey v. Hemingway*, No. 2:20-CV-12029, 2020 WL 8617585, at *1 (E.D. Mich. Sept. 18, 2020) (citing *Williams v. Clarke*, 82 F.3d 270, 272–73 (8th Cir. 1996); *Doster v. Jones*, 60 F.Supp.2d 1258, 1259 (M.D. Ala. 1999) (citing cases)). Rule 41(a)(1)(A)(i) permits an action to “be dismissed by the plaintiff without order of court by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs.”

The Sixth Circuit has “taken [Rule 41(a)(1)(A)(i)] at face value” and assumed that it “means what it says.” *Aamot v. Kassel*, 1 F.3d 441, 444 (6th Cir. 1993). “During that period [before the defendant files an answer or a motion for summary judgment], the court has no discretion to deny such a dismissal.” *Id.* at 443. A dismissal under Rule 41(a)(1)(A)(i) is without prejudice. *Id.*

Accordingly, Petitioner's request in his Notice to Withdraw Petition is GRANTED. Petitioner's petition for writ of habeas corpus is DISMISSED WITHOUT PREJUDICE.

IT IS SO ORDERED.

Dated: March 25, 2021
Ann Arbor, Michigan

s/Judith E. Levy
JUDITH E. LEVY
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on March 25, 2021.

s/William Barkholz
WILLIAM BARKHOLZ
Case Manager